

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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DEC - 4 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 73.606(b))
Table of Allotments, Television)
Broadcast Stations and)
Section 73.622(b), Table of)
Allotments, Digital Television)
Broadcast Stations)
(Buffalo, New York))

Docket No. 98-175
RM-9364

To: Chief, Allocations Branch

REPLY COMMENTS OF

WESTERN NEW YORK PUBLIC BROADCASTING ASSOCIATION

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December 4, 1998

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SUMMARY

Western New York Public Broadcasting Association ("Association"), licensee of noncommercial educational television Stations WNED-TV, Channel 17, and WNEQ-TV, Channel *23, Buffalo, New York, and Petitioner in this proceeding, fully supports the proposal to change the reserved channels at Buffalo, to reflect Channel *17 as the reserved channel and Channel 23 as the unreserved channel in the NTSC Table, and to reflect Channel *43 as the reserved channel and Channel 32 as the unreserved channel in the DTV Table. As a result, the Association will provide an enhanced public television service for its "mainstay" Station WNED-TV on NTSC Channel *17 (and reserved Channel *43). It proposes to assign its Station WNEQ-TV on unreserved Channel 23 (and companion unreserved Channel 32) to a commercial entrepreneur, with the proceeds dedicated through an endowment for the maintenance and improvement, including expedited digital conversion, of Station WNED-TV.

This proposal serves the public interest and should be approved expeditiously by the FCC. Four other parties have filed comments in this proceeding, but two are by local commercial licensees affected by competitive concerns and two are by entities which are unrelated to the local public television needs and interests of the Buffalo region.

Notwithstanding mischaracterizations by the other commenting parties, this proposal involves a mere change in reservation from one channel to another, and not a dereservation. It does not remove or add any channel and does not alter the total number of reserved channels in Buffalo. There is now one reserved channel (Channel *23) and there will be one reserved channel (Channel *17) following FCC approval of the rule making proposal. There are six unreserved channels in Buffalo and there will be six unreserved channels in the future, all of which can be operated on a commercial basis. The Association could under

existing FCC policy convert its current operations on unreserved Channel 17 for commercial usage by itself or others, and that same FCC policy can and should permit this same objective to be accomplished on an unreserved Channel 23 following FCC approval of this simple change in the historic sole reserved channel at Buffalo. Contrary to FCC policies, counterproposals submitted by the Coalition for Noncommercial Media ("Coalition") would improperly seek to reserve two channels at Buffalo, despite the specific objections of the local licensee and would also seek to pursue such simplistic approaches on a nationwide basis, heedless of local facts and circumstances. Those counterproposals would produce technical and administrative chaos, and would unnecessarily complicate the principles underlying the NTSC and DTV Tables. They would force a blind adherence to the status quo irrespective of local factors, especially where significant overlap of service areas or duplicative programming may be mandated, contrary to local public broadcasting efforts and interests. They would disserve the public interest in financially-sound local public broadcast services operating in the multichannel digital environment.

Significant improvement in public broadcasting for the Buffalo region cannot realistically be achieved without the infusion of a substantial new funding source made possible by the proposed endowment after the reserved channel change. Such proposals have been encouraged by the FCC when financial benefits from innovative projects will be dedicated, as here, to public broadcasting maintenance and development, through imaginative and comprehensive new programming and by pioneering digital conversion in the area.

The Association and its diverse Board of Trustees unanimously endorse the proposal. The FCC must be guided in this proceeding by this solid local public support and by settled allocations principles, as described above.

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**REPLY COMMENTS OF
WESTERN NEW YORK PUBLIC BROADCASTING ASSOCIATION**

Western New York Public Broadcasting Association ("Association"), licensee of noncommercial educational television Stations WNED-TV, Channel 17, and WNEQ-TV, Channel 23, Buffalo, New York, and Petitioner in this proceeding, files these Reply Comments in support of the above-referenced Notice of Proposed Rule Making ("NMPR").

A. The Commenting Parties

1. In addition to supporting Comments by the Association, four parties filed Comments in this proceeding. Two parties are existing commercial licensees in the Buffalo market (Grant Television, Inc., licensee of commercial television Station WNYO-TV ("Grant") and WKBW-TV License, Inc., licensee of commercial television Station WKBW-TV ("WKBW")). These two parties presumably seek to become eligible interested parties for proposed assignment through a change in the reserved channel at Buffalo, as contemplated in the NPRM. In fact, one of these parties (Grant) is itself a disappointed bidder for the proposed assignment. Both of these parties advert to

commercial competitive implications and a claimed necessity for commercial competitive bidding for the unreserved channel. It is apparent that these parties largely seek to protect their existing share of the Buffalo market against the possibility of another commercial television station.

2. Southtowns Christian Center ("Southtowns"), located in Lakeview outside of Buffalo, New York, provides no statement of interest or viewership or tie to the proposed change of reservation. Its generalized opposition to the proposal appears to be no more than a possible programmatic format objection, a matter not properly within the Federal Communications Commission's ("FCC") areas of concern, either within or without the rule-making process. The fourth party, the Coalition for Noncommercial Media ("Coalition"), claims ties to the Buffalo area and the proposals in this proceeding through area memberships or viewerships. However, its pleading is entirely devoid of any documentation of that claim.¹ Rather, the pleading appears to be a document generated by a national group centered in Washington, D.C., and far removed from the local public television interests and needs of the Buffalo region.

3. By contrast, the Association, as Petitioner and as commenter in support of the proposal, has a four-decade history of local public broadcasting through a membership-supported community organization, which includes over 25,000 loyal members throughout the western New York and southern Ontario areas. Above and beyond its stewardship of public television Stations WNED-TV and WNEQ-TV, the

¹ The Association always welcomes comments from its audience and has received a large number of commendations for its forty years of service to the community and region. However, the Coalition's gratuitous assertion of support for its position from "regular viewers" of the Association's stations cannot be countenanced.

Association is the licensee of public broadcast Stations WNED-AM and WNED-FM, Buffalo, New York, as well as public FM Station WNJA(FM), Jamestown, New York. The Association's Station WNED-TV on Channel 17 at Buffalo is the oldest public television station in the State of New York. It is widely recognized in PBS circles as the producer of "The Mark Russell Comedy Specials" (which have run on PBS for a quarter of a century) and as co-producers of "Reading Rainbow", the multiple Emmy-award winning children's reading series. In the Buffalo area, Station WNED-TV is widely known for its strong educational and community outreach programming in such areas as literacy, women's health, AIDS education, the environment and educational change. Station WNEQ-TV on Channel *23 has been operated as a second television channel providing supplementary noncommercial educational television service. Through all of its public facilities in the area, the Association represents a major public telecommunications enterprise which has pioneered diverse educational, cultural and public service programming for the entire western New York region.

4. The Association's diversity is reflected as well in the composition of its 33-member Board of Trustees. See in this connection attached Exhibit 1, reflecting participation by local civic, cultural and educational interests, business and labor representatives, as well as minority and community organizations. In addition, the Association has an 18-member Community Advisory Board ("CAB"), composed of varied representative elements and organizations in the area. See attached Exhibit 2. Both its Board of Trustees and its CAB unanimously support the proposals set forth in the NPRM. The Association's members and viewers have also voiced strong local approval for this project. See in addition, attached Exhibit 3, which is an editorial from the local Buffalo

News dated May 26, 1998 extolling the proposal as “a responsible vision of the future role of public television in Greater Buffalo and Southern Ontario — and a recognition of economic realities.”

B. The FCC Has Ample Authority to Change the Reservation of Channels at Buffalo.

(1) The Proposal Involves a Mere Change in Reservation from One Channel to Another, Not a Dereservation

5. The commenting parties have wholly mischaracterized the nature of the proposal in this proceeding. The NPRM correctly confirms that the rule-making proposal is merely a change in reservation from one channel to another, which

does not propose to remove or add any channel, nor would it alter the total number of channels in Buffalo which are reserved for noncommercial educational use.

(NPRM, par. 5). That NPRM finds that the proposal “warrants consideration” and “would serve the public interest”, pursuant to the statutory authority of Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Act, as amended. See NPRM, Appendix, par. 1.

6. Contrary to claims by WKBW (Comments, pp. 3, 7) and the Coalition (Comments, pp. 1, 6), the proposal in this proceeding does not involve any form of dereservation of an existing reserved channel. There is now one reserved channel in Buffalo at present (Channel *23) and there will be one reserved channel in Buffalo after FCC approval of the proposal (Channel *17). Currently, the NTSC Table of Allotments specifies seven television frequencies for Buffalo — six non-reserved and one reserved. This was a pattern established in the FCC’s Sixth Report and Order, 1 RR 91:601, 91:716 (1952), when Channel *23 was reserved as the sole noncommercial educational channel for Buffalo. That pattern would remain unchanged by adoption of the proposal

in this proceeding; it would simply change the specific channel which is reserved. Only approximately twenty-five U.S. communities have the luxury of multiple public television stations available to them, and most are in markets much larger than Buffalo.² Through adoption of the proposal in this proceeding, Buffalo will preserve its historic sole reserved channel. Accordingly, proceedings which relate to a dereservation, such as Deletion of Noncommercial Reservation of Channel *16, 482-488 MHZ, Pittsburgh, Pennsylvania, 11 FCC Rcd 11700 (1996), are simply not on point. In addition, it should be noted that entities such as WKBW and Grant have benefitted for many years from the fact that the Association has operated Station WNED-TV on unreserved Channel 17 as a noncommercial station. Were it not for this accident of history, Buffalo would have had another commercial television station for years and WKBW and Grant would have encountered another established commercial competitor. The Association should not be penalized now because it has operated an otherwise "fallow" unreserved Channel 17 for many years.

7. Similarly, contrary to the contention by WKBW (Comments, p. 3), auction procedures relate solely to "initial" commercial station applications and are inapplicable here. Section 309(j)(2) of the Act specifically exempts authorizations relating to public broadcast stations, whether new or existing, from the auction process. In view of this specific exemption, which is unmentioned by WKBW, its proposals that, following a

² The Coalition asserts (Comments, p. 9) that the FCC traditionally reserves approximately 25% of television channels for noncommercial use. However laudable this goal may be in principle, the Buffalo area was never supplied such a high percentage of reserved channels. It has only one reserved channel out a total of seven, or 14%. It will continue to have 14% at the satisfactory conclusion of this proceeding.

claimed "dereservation", the Association must submit any authorization on unreserved Channel 23 for cancellation, and that the channel must then be placed in a pool of available television licenses for award through a system of competitive bidding, are totally without merit and must be rejected by the FCC.

(2) The Coalition's Counterproposals Are Meritless and Are in Conflict with the FCC's Policies.

8. Equally without merit are counterproposals submitted by the Coalition, which are unwarranted under the circumstances of this proposal for a mere change in the reservation of an allocated channel. In the first place, the Association, as the licensee of unreserved Channel 17, has not requested reservation of that channel in addition to Channel *23. On the contrary, it opposes any such request, and seeks solely the substitution of Channel *17 in lieu of Channel *23, so that only one reserved channel would continue at Buffalo. Under applicable FCC policy, the FCC does not pursue rule-making proposals absent a specific commitment to proceed by the interested party. The Association, which is the only interested licensed party regarding both Channel 17 and Channel 23, has not made and does not propose to make any commitment for two reserved channels at Buffalo. The Coalition's counterproposal is wholly unrelated to any specific allocations proposal for Buffalo and is not worthy of FCC consideration.

9. The Coalition has also proposed that the Commission should reserve every unreserved channel across the country which is now in use for noncommercial educational purposes. That counterproposal is undocumented in any way and is unsupportable as an allocations principle. Pursuit of the Coalition's counterproposal is entirely extraneous to the Buffalo proposal. It would run counter to the FCC's cardinal policy of

allocations considerations on a specific community-by-community case-by-case basis. The Coalition's simplistic approach to such allocations considerations would produce technical and administrative chaos and would unnecessarily complicate the principles underlying the FCC's NTSC and DTV Tables of Television Allotments.

10. Wholly apart from the Commission's well-settled policies in this area, blanket reservations of existing operating stations may well disserve the public interest, especially where such operations involve significant overlap of public broadcast stations and where no distinctive programming or audience orientation would be provided. At the present time, the public broadcast industry is engaged in an intensive self-examination of the nature and mission of its noncommercial educational operations and the manner in which it should proceed in order to meet the challenges of the digital age with limited funding opportunities. High on this agenda are proposals to discourage unnecessary overlap of duplicating stations, to foster increased efficiencies of production, distribution and operation, and to encourage mergers, consolidations and other arrangements designed to halt the number of stations offering duplicative programming fare and to assure the long-term viability of the industry. These industry efforts take on fresh importance in the context of the substantial new costs which will be entailed in digital conversion in the years ahead. In a similar vein, the Corporation for Public Broadcasting ("CPB") has enacted sweeping changes to its public television station grants program, in order "to move the industry towards greater operating efficiencies and increased revenues." Under its new structure, which commenced in FY 1997, CPB provides "financial incentives for collaboration and consolidation", additional support for stations in rural and sole service communities, encouragement for funds raised from

non-federal sources, and a plan over three years to "limit stations located in 17 overlap service areas and recipients of multiple base grants to a single grant". CPB Changes Public Television Grant Structure, released March 11, 1996.

11. The Coalition's counterproposals could readily jeopardize these efforts at public broadcast reorganization and self-sufficiency. A blind adherence to preservation of the status quo, as represented in the Coalition's proposal to reserve all existing multi-channel operations and narrowly limit the permissible uses for such facilities, is a counterproductive and mechanical approach to a complicated and evolving process. These counterproposals would serve to discourage creativity and innovation in the public broadcast field at the very time they are most needed and would either bar or hamper legitimate attempts to offer new and imaginative solutions to the problems facing public broadcasting today. They should be dismissed outright by the FCC.

(3) The Proposed Assignment of Channel 23 to a Commercial Entrepreneur Following a Change in Reservation to Another Channel Fully Accords with FCC Policies.

12. Under existing FCC policies, the Association could properly file a minor modification application for its Station WNED-TV on unreserved Channel 17 for proposed commercial usage. The Association could thereby either operate a commercial television station on its own on unreserved Channel 17 or could seek FCC consent to assignment to another party (for which competing applications would not be permitted pursuant to the explicit provisions of Section 310(d) of the Act). Indeed, the Association's Petition for Rule Making, p. 3, specifically discussed this permissible process. See in this connection, Amendment of Parts 73 and 74 of the Commission's Rules to Permit Certain Minor Changes in Broadcast Facilities Without a Construction Permit,

MM Docket 96-58, 12 FCC Rcd 12371, 12392 (1997). See also Section 73.1690(c)(9) of the Commission's rules. In accord with these procedures, public broadcast licensees operating on unreserved channels have permissibly assigned licenses to commercial entities. See, e.g., assignment of Station KTLC, operating on a noncommercial educational basis on unreserved Channel 43, Oklahoma City, Oklahoma from the Oklahoma Educational Television Authority (which also is the licensee of public television Station KETA operating on reserved Channel *13 at Oklahoma City) to Paramount Stations Group of Oklahoma City LCC for \$23,500,000 (File No. BALCT-980327IA, filed March 27, 1998, granted July 8, 1998 and consummated July 15, 1998). Cf. also, the FCC's condonation of intraband television channel exchanges where public broadcast stations receive significant public interest benefits from the exchange. Clermont and Cocoa, Florida, 5 FCC Rcd. 6566, 6568 (1990). The proposals at Buffalo do not involve an intraband channel exchange, but rather a simple assignment of an unreserved channel from a public broadcast to a commercial broadcast entity. However, the FCC's stress upon the public interest benefits to public broadcasters, in situations where no reservation is eliminated, is comparable in both contexts. The net effect is the same, with no reduction in either the noncommercial or commercial frequencies in a market. While Grant (Comments, p. 3) appears to acknowledge the validity of the intraband channel exchange, it illogically fails to recognize the similarity in result through the instant proposal. Moreover, as the FCC underscored, it

will take cognizance of the fact that licensees are more familiar than the Commission with the needs of their audiences. The Commission will accord significant weight to determinations reached by the directors of public stations.

Intraband Television Channel Exchanges, 59 RR 2d 1455, 1464a (1986). In this Buffalo proceeding, the Association's Board wholeheartedly endorses the proposals and the attendant enormous public interest benefits for local public broadcasting.

13. The change in reservation proposed herein permits this assignment process to be pursued on an unreserved Channel 23. The precedent which supports such an assignment process as a routine matter on unreserved Channel 17 likewise supports an assignment process on unreserved Channel 23. The Association urges the FCC to endorse this process through the requested change in channel reservation. Such a procedure, rather than, as claimed by Grant (Comments, p. 2), a requisite filing of a "new" application by the Association following a petition "to drop its 'asterisk'", is the proper way to proceed and will fully serve the public interest. The proposal in this proceeding should be routinely adopted by the FCC in accord with its outstanding existing policies in this area.³

C. The Association's Proposal in This Proceeding Amply Serves the Public Interest.

(1) Enhanced "Mainstay" Operations.

14. The change in reserved channels at Buffalo permits enhanced Channel 17 operations for public television Station WNED-TV at state-of-the-art facilities. This enhancement will be accomplished through an endowment fund from the proceeds of the sale of unreserved Channel 23. Station WNED-TV on Channel 17 is the "mainstay"

³ The Association's Petition , p. 3, filed in May 1998, correctly stated that it was engaged in a bidding process with prospective assignees for Channel 23. That process was completed in the summer of 1998, at which time the winning bidder was disclosed. The Association did not engage in any claimed "deceptive public relations strategy" (Southtowns Comments, p. 3), and, despite the insinuation by WKBW (Comments, p. 4, fn. 8), a copy of the agreement was timely filed with the FCC on September 2, 1998.

station for public television operations in the Buffalo area. It is so recognized by viewers and members. It operates with significantly more power and coverage, and is technically more advanced, than the Association's sister public television Station WNEQ-TV on Channel 23. WKBW claims (Comments, p. 4) that the Association should not be the beneficiary of proceeds from a sale of its non-reserved channel to a commercial operator, even though WKBW would itself properly benefit from any proceeds from the sale of its non-reserved channel in the same market to another commercial operator. The proceeds from the transaction contemplated herein will be dedicated to improve and augment the public broadcast operations of the Association, and the FCC itself has acknowledged that the Association and the viewers of Station WNED-TV are deservedly "entitled to reap the full benefits" of this resultant endowment. Intraband Television Channel Exchanges, supra, at 1464. The FCC has long recognized "the unique financial difficulties faced by noncommercial stations", which will "need and warrant special relief to assist them in the transition to DTV". Likewise, the FCC readily acknowledges that these public broadcast stations "have also been at the forefront of exploring innovative services and new technologies to accomplish" their mission. See Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees, Notice of Proposed Rule Making, MM Docket No. 98-203, released November 19, 1998, pars. 10, 21. The Association's proposal in this proceeding is another illustration of an "innovative service" particularly designed to confront and resolve the "unique financial difficulties" facing public broadcasters.

(2) The Inadequacies of Station WNEQ-TV.

15. The Association regrets that it has been unable over the years to maximize the potentialities of Station WNEQ-TV on Channel *23 as the second public television station for the Buffalo area. It has worked conscientiously to implement this facility but despite its best endeavors Station WNEQ-TV has not been able to achieve the programming and operational goals which the Association has long sought. Of key importance has been the fact that annual State funding, which had long been a primary reliance by the Association for its Buffalo operations, has been cut by over \$2 million dollars. Other public broadcast funding sources have likewise been static or declining in recent years. Accordingly, in these precarious financial times, the Association has had to order its priorities with respect to its licensed public television facilities at Buffalo. As a result, it has been difficult for the Association to program Channel 23 on any extended hourly basis, and, because of cost constraints, operations have been limited to approximately eight hours a day. It should be noted also that some 14 1/2 of these hours (or over one-quarter of the total) are repeats of programs originally carried on Station WNED-TV on Channel 17. The programming inadequacies of Station WNEQ-TV are due to the lack of sufficient operating funds available to the Association, absent its proposed endowment, and due to the lack of CATV carriage, particularly for its substantial Canadian audiences. Notwithstanding Southtowns' contentions (Comment, pp. 2-3), governmental funds which the Association has received have necessarily been utilized for "mainstay" Station WNED-TV, not Station WNEQ-TV. Such funds have been utilized for the common building and for the purchase of equipment for the Association's public broadcasting center, but have not been dedicated exclusively to Station

WNEQ-TV on Channel *23. In any event, in the Association's view, the source and/or utilization of particular funding, whether governmental or not, is not a pertinent FCC consideration.⁴

(3) Program Plans and Operations.

16. As discussed above, the Association's public television Station WNED-TV is a major television producer. These operations, both local and national in scope, will be augmented significantly, but only through development and maintenance of the endowment resulting from the sale of Station WNEQ-TV on Channel 23. Contrary to Southtowns' claim (Comments, p. 2), this is not a "contradictory" assertion concerning programming plans by the Association. Nor are these program benefits in any way "speculative", as contended by the Coalition (Comments, p. 16). Rather, fulfillment of these enhanced programming plans and operations as a practical matter is contingent upon the development of a stable and substantial and secure source of funds to cover capital costs and operating expenses. Only in this way can the Association devise a comprehensive public television and telecommunications system to serve the analog as well as digital needs of its audiences throughout the western New York region.

17. Despite the Coalitions's speculations to the contrary (Comments, pp. 17-18), Station WNED-TV's DTV multi-channel operations will include substantial creative and pioneering programming for diverse audiences. WKBW speculates (Comments, p. 5)

⁴ The Coalition claims that second reserved channels are used to serve "low income" audiences (Comments, p. 17). The Association is unaware of any studies justifying the claim of viewership by low income groups. In fact in certain communities, because of power configuration, Station WNEQ-TV on Channel *23 would be available only to individuals who could afford to purchase CATV service.

that the Association “does not intend to maintain the existing level of non-commercial service”. WKBW appears to imply that maintenance, or indeed improvement, of service relies solely upon the number of stations operated by a station in a market. A far better measure is the improved and enriched multiple services provided by Station WNED-TV over its reserved Channel *17 made possible by the endowment. The impact of improved community services over a single better-funded channel would in the Association’s view be far superior to those offered on two less well-funded channels. The Association’s endowment will permit Station WNED-TV to produce and acquire significant programming for both radio and television and for both local and non-local audiences. In this manner, the Association will achieve self-sufficiency through a realistic marshaling of public broadcasting dollars in a coordinated and consolidated public television service for the Buffalo region. It is to be noted also that Station WNED-TV’s programming operations will include significant minority-oriented programming and projects, spurred by the Association’s CEO, who is one of the very few minority CEOs in the public broadcast field.

(4) Digital Conversion.

18. The endowment from the sale of unreserved Channel 23 will also aid in digital conversion for Station WNED-TV, defraying the costs not covered by federal and state grants or other sources. Following digital conversion, Station WNED-TV on Channel *17 will be increased from one channel to four and special receivers will enable viewers to select from among a menu of programs broadcast on Channel *17. Notwithstanding the Coalition’s charges (Comments, pp. 16-17), the Association’s

digital commitments are comprehensive and realistic. Contrary to Southtowns's outdated view (Comments, p. 2), multiple channel operation for Station WNED-TV will be the norm in the coming digital environment, at least at times when its new digital channel is not being used for HDTV, and the Association will be able to provide four channels of service, not two as at present. The Association submits that, rather than merely counting the number of analog channels operated by a licensee, the FCC should measure a licensee's commitment to serve its community with a first-class digital service — including both multi-channel operations and HDTV. In addition, it should be noted that the endowment will allow Station WNED-TV on Channel *17 to convert to digital television years earlier than the current FCC deadline of 2003 for noncommercial stations. Approval of the proposal would allow Station WNED-TV at an early date to be one of only a handful of public television stations nationally providing leadership in digital television through program production and experimentation with multi-channel delivery.⁵ These benefits by themselves warrant grant of this proposal.

Conclusion

19. Expeditious action in this proceeding is urgently needed. The Association desires to proceed as rapidly as possible to implement its arrangement for the assignment of the Channel 23 license, once the change in channel reservation has been approved by the FCC. The Association and its Board of Trustees, as well as the members and viewers of the Association's public television stations in the Buffalo area, solidly support these proposals, which serve the public interest. The only opposition to

⁵ In this regard, the Association is one of a very few public television stations selected to host the PBS Digital Express in its initial tour.

these wise proposals comes from commercial interests motivated solely by private competitive concerns or from entities which are manifestly unrelated to the local public television needs and interests of the Buffalo region. The Association urges the FCC to place the public interest before these private and parochial concerns by approving without delay the proposals advanced in the NPRM.

Respectfully submitted,

WESTERN NEW YORK PUBLIC
BROADCASTING ASSOCIATION

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December 4, 1998

WESTERN NEW YORK PUBLIC BROADCASTING ASSOCIATION BOARD OF TRUSTEES

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Western New York Public Broadcasting Association -- Board of Trustees

3

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Western New York Public Broadcasting Association -- Board of Trustees

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Title	First Name	Last Name	Job Title	Company	Address 1	City	State	Zip Code
Mr.	Mark	Banks		Erie 1 BOCES	355 Harlem Road	West Seneca	NY	14224
Dr.	Kathy	Battaglia	Supervisor	Frontier Comm. Ed. - GED	2751 Amsdell Rd.	Hamburg	NY	14075
Mr.	David	Caban	Principal	Herman Badillo School	300 S. Elmwood Avenue	Buffalo	NY	14201
Ms.	Joan	Clark		Consumer Credit	43 Court Street, #730 Conv. Tower	Buffalo	NY	14202
Mrs.	Ruth	Cohan			15 Brittany Lane	Buffalo	NY	14222
Dr.	Peter	Dow	Director of Education	Buffalo Museum of Science	1020 Humboldt Pkwy.	Buffalo	NY	14211
Dr.	Kenneth	Dyl	Assoc. Dir. Finance & Edu.	Erie 1 BOCES	355 Harlem Road	West Seneca	NY	14224
Mr.	Thomas	Fricano	Region 9 Director	United Auto Workers	4285 Genesee Street	Cheektowaga	NY	14225
Rabbi	Ronnie	Freidman		Temple Beth Zion	805 Delaware Avenue	Buffalo	NY	14209
Ms.	Carolyn	Gromer		Lit. Volunteers of Bfio/Erie Cty.	75 Carriage Hill East	Williamsville	NY	14221
Dr.	Don	Jacobs		S.U.C.N.Y.A.B.	1300 Elmwood Avenue TR#420 So.	Buffalo	NY	14222
Ms.	Kathleen	Knauth	Executive Director	NF Industry Ed Council	1050 Maryvale Dr.	Cheektowaga	NY	14225
Mr.	David	Mislin	Vice President	Lang & Washburn	185 Creekside Drive	Amherst	NY	14228
Ms.	Simone	Mitchell-Peterson	Executive Director & CEO	Girl Scout Council Bfio/Erie Cty.	70 Jewett Parkway	Buffalo	NY	14214
Ms.	Marja	Nordman	Director	Environmental Clearinghouse	152 University Avenue	Buffalo	NY	14214
Ms.	Linda	Perkins	Coordinator, Child Svcs.	Erie County Public Library	Lafayette Square	Buffalo	NY	14203
Mr.	Kevin	Sullivan	President	Medaille College	18 Agazziz Circle	Buffalo	NY	14214
Ms.	Myrna	Young	Executive Director	Everywoman Center	237 Main Street, Suite #330	Buffalo	NY	14203

FROM "THE BUFFALO NEWS"
May 26, 1998

BIG CHANGES IN BROADCASTING

Sale of Channel 23 makes sense for Buffalo public television

The decision to sell WNEQ-TV/Channel 23 is both timely and smart. It reflects a responsible vision of the future role of public television in Greater Buffalo and Southern Ontario — and a recognition of economic realities.

If a buyer is found, one of Buffalo's two public television stations will go commercial. But that is likely to leave this area with a much stronger surviving Channel 17.

Channel 23 began broadcasting 11 years ago this month. There has never been enough funding to make it a success, and it has never found its niche. Selling it would let the Western New York Public Broadcasting Association, owner of WNED-TV, Channel 17, as well as AM and FM radio stations, get rid of a white elephant.

What precipitates the decision is the prospect of spending a good deal more money if Channel 23 were to be maintained. The Federal Communication Commission is requiring TV stations around the country, by early in the next century, to convert from analog technology of the past to digital technology for the future.

Conversion is expensive, estimated at

some \$7 million to \$10 million for each channel.

Moreover, the transformation will add three new channels to each broadcast signal: Channel 17, with one signal now, with digitalization will have four channels. It doesn't need another four from Channel 23.

Depending on the success of the sale, which the trustees hope to complete by year-end, those funds can do more than relieve the association of burdensome expenses. They can also bolster the resources underpinning Channel 17 as it moves into the new century.

Trustees plan to use revenues from the sale not only to help pay for the digital conversion of Channel 17, which will probably also be eligible for state and federal aid, but also for a promising new purpose — to establish an endowment fund. Income from the endowment would help defray expenses for the production, using Channel 17's state-of-the-art capabilities, for new programs. Those shows would be aired in this market, and some might well be sold to outlets in other markets as well.

Already, Channel 17 co-produces "Reading Rainbow," a reading-motiva-

tion series watched by 4 million children nationwide. Begun here years ago it just won its fifth Emmy as the best children's program on TV. Then, of course, the Mark Russell show originated here.

So selling Channel 23 can do more than just meet economic and technological pressures. It can provide opportunities to strengthen public broadcasting in this region.

"Western New York and Southern Ontario have a wealth of compelling stories," says Donald K. Boswell, association president. "We plan to research story potential and create television and radio programs for regional, national and international audiences."

It's nice to hear Boswell include radio. The association's formerly strong radio news operation has suffered grievous reductions in staff.

All of this will require money. Too often creative ideas can't be realized because financial resources are weak.

The sale of Channel 23 can help Channel 17, which went on the air in 1959, and radio stations WNED-AM, WNED-FM and WNJA-FM to transform into on-air results an expanded vision for the new century.

CERTIFICATE OF SERVICE

I, Nancy M. Cassady, Secretary in the law offices of Schwartz, Woods & Miller, hereby certify that I have on this 3rd day of December, 1998, sent by First Class United States mail, postage prepaid, copies of the foregoing **REPLY COMMENTS OF WESTERN NEW YORK PUBLIC BROADCASTING ASSOCIATION** to:

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